

AMENDED IN SENATE AUGUST 26, 2003

AMENDED IN SENATE JULY 15, 2003

AMENDED IN ASSEMBLY MAY 19, 2003

AMENDED IN ASSEMBLY APRIL 1, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1398**

**Introduced by Assembly Member Vargas**

February 21, 2003

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An act to amend Section 25664 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 1398, as amended, Vargas. Alcoholic beverages.

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon, alcoholic beverage licenses by the Department of Alcoholic Beverage Control. That act also prohibits, subject to a criminal penalty, the use of alcoholic beverages, in any advertisement ~~that encourages~~ *of alcoholic beverages, of any subject matter, language, or slogan addressed to and intended to encourage* minors to drink the alcoholic beverages.

This bill would ~~create the presumption that~~ *additionally prohibit* any signage or flyers that advertise establishments that serve alcoholic beverages to individuals under the age of 21 years ~~are prohibited~~, if one of the establishment's principal business activities is the selling of alcoholic beverages and the advertisement expressly states that the

jurisdiction in which the establishment is located has a legal drinking age of under 21 years, or that individuals under the age of 21 years may patronize the establishment.

This bill would impose a state-mandated local program by changing the definition of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares the  
2 following:

3 (a) Alcohol is often a factor in motor vehicle accidents,  
4 homicides, and suicides, which are the three leading causes of  
5 death among youth between the ages of 10 and 24 years.

6 (b) California's close proximity to Mexico presents a challenge  
7 in preventing underage drinking because Mexico's legal drinking  
8 age differs from that in California.

9 (c) Establishments located in Mexico have targeted the youth  
10 population in the United States, through the use of marketing  
11 techniques, to encourage patronage at their bars and nightclubs.

12 (d) Unfortunately, many times the marketing techniques of  
13 these Mexican establishments are successful; federally funded  
14 studies have confirmed that young people exposed to  
15 alcohol-related advertising are more likely to consume alcohol.

16 (e) Because the consumption of alcohol among those under the  
17 age of 21 years creates a significant health and safety risk,  
18 California has a substantial interest in engaging in efforts to reduce  
19 underage drinking.

20 SEC. 2. It is the intent of the Legislature, in enacting this act,  
21 to prohibit, in California, advertising promoting the consumption  
22 of alcohol outside the United States that is aimed at individuals  
23 under the age of 21 years by establishments that sell alcoholic

1 beverages as one of an establishment's principal business  
2 activities.

3 SEC. 3. Section 25664 of the Business and Professions Code  
4 is amended to read:

5 25664. (a) (1) ~~The use of alcoholic beverages~~ *use*, in any  
6 advertisement *of alcoholic beverages*, of any subject matter,  
7 language, or slogan addressed to and intended to encourage minors  
8 to drink the alcoholic ~~beverages~~ *beverages*, is prohibited.

9 (2) Signage or flyers advertising an establishment that serves  
10 alcoholic beverages to individuals under the age of 21 years are  
11 ~~presumed to be~~ prohibited under paragraph (1) if one of the  
12 establishment's principal business activities is the selling of  
13 alcoholic beverages, and the advertisement expressly states that  
14 the jurisdiction in which the establishment is located has a legal  
15 drinking age of under 21 years or that individuals under the age of  
16 21 years may patronize the establishment.

17 (3) Nothing in this section shall be deemed to restrict or  
18 prohibit any advertisement of alcoholic beverages to those persons  
19 of legal drinking age.

20 (b) The department may adopt rules as it determines to be  
21 necessary for the administration of this section.

22 SEC. 4. No reimbursement is required by this act pursuant to  
23 Section 6 of Article XIII B of the California Constitution because  
24 the only costs that may be incurred by a local agency or school  
25 district will be incurred because this act creates a new crime or  
26 infraction, eliminates a crime or infraction, or changes the penalty  
27 for a crime or infraction, within the meaning of Section 17556 of  
28 the Government Code, or changes the definition of a crime within  
29 the meaning of Section 6 of Article XIII B of the California  
30 Constitution.